

# **SECOND JUDICIAL DISTRICT FOR THE STATE OF IDAHO**

## **DRIVING UNDER THE INFLUENCE COURT**



### **CLIENT HANDBOOK**

## **NEZ PERCE COUNTY**

**December 2011 Edition**

### **WELCOME**

Welcome to the Nez Perce County Driving Under the Influence Court Program, (DUIC). This handbook is designed to answer questions and give you information about the DUIC Program.

If you join the DUIC you will be expected to follow the instructions of the Judge and the probation officer as well as to comply with the treatment plan agreed upon by you and your counselors. This handbook will tell you more about the DUIC Program. You are encouraged to share it with your family and friends.

### **PROGRAM DESCRIPTION**

Driving Under the Influence Court Program is an opportunity to participate in alcohol and drug treatment programs while under close supervision by the court system. It is designed for adults with a substance abuse problem who have committed the crime of Driving Under the Influence or have multiple charges related to alcohol abuse. Instead of going to jail, defendants are given the chance to stay in their community while getting help following their treatment plans. Participants will be closely monitored by a substance abuse professional, and will get treatment for substance abuse with frequent screening tests to check for alcohol and drug use. There is also close involvement with Misdemeanor Probation, and the court system. Participants in DUIC will appear in court often and report to the Judge about their progress. The Judge also receives reports from the DUIC team, treatment counselors, and probation officers. The average length of the DUIC program is sixteen (16) to twenty (20) months.

## **ELIGIBILITY CRITERIA**

To be eligible to participate in the DUI Court you must:

- The defendant must be able to manage the structure of the program.
- The defendant must be identified as having a substance abuse problem.
- The defendant must have a criminal history consisting of at least one prior conviction for Driving Under the Influence, or an alcohol concentration test of .20 or above, or multiple charges related to alcohol abuse.
- The defendant must reside in the City of Lewiston.
- The defendant may not have any violent or serious felony convictions, past or pending charges involving use or possession of a firearm or deadly weapon, use of force or attempted use of force against a person, including resisting arrest.
- The defendant may not have any sex offenses in their criminal history.
- The defendant is not taking any controlled substance medication.
- The defendant is not currently on felony parole or probation.
- The defendant has not previously participated in a Problem Solving Court Program.

Note: all eligibility criteria/guidelines are subject to review by the DUIC Team.

## **HOW DO I GET INTO DRIVING UNDER THE INFLUENCE COURT?**

Any member of the team may nominate someone for DUI court. The first call should be to your lawyer. Your lawyer will decide if DUI court is a good option for you and your lawyer will see that the screening process begins. After you have completed appointments with the necessary professionals you will be in a Pre-Phase to determine if you are a good fit for the program and if you will be able to handle the structure of the program. If you are accepted into the program, your lawyer will still be your lawyer as long as you are in the program.

## **WHAT WILL HAPPEN IN COURT?**

Usually you will be required to plead guilty, or admit to a probation violation, before you are allowed to enter the DUIC Program.

Once you are in the program you will be required to attend court on the first and third Wednesday of the month. DUI court meets in Courtroom Three at the Nez Perce County Courthouse at 4:30 pm. When you come to court you will be called by name to come forward and have a conversation with the Judge. He will ask you to tell him how you are doing in your program, and he will give you a chance to ask him questions or to ask for help with any problems.

If you have been told to attend AA/NA meetings you must bring your attendance card with you to court every time you come. If you have a job you need to bring a copy of your pay stub to show the Judge that you are working. All participants in the program attend court together.

Family members and friends are invited and encouraged to attend court with you.

## WHAT DOES THE PROGRAM COST?

The cost for participation in DUI court is currently: Sixty (60) dollars per month for DUIC fees and twenty-five (\$25) dollars per month for costs of supervision to Adult Probation. Court and supervision fees will be applied to the participant's account on the first of the month. Supervision and court fees will be paid to the Clerk of the District Court in Nez Perce County. Participants will be required to pay the DUIC fee while in phases 1-3. Unless the participant qualifies for funding assistance, the participant will be responsible for the cost of treatment. There may be additional fees for evaluations, assessments, testing, alcohol detection devices, and co-pays. Treatment fees will be paid directly to the treatment provider. Payment records will be reported to the Judge as part of your progress reports.

NOTE: Court fees are subject to change during the program and all participants will be given advance notice to any change in fees. All court and probation fees must be paid in full prior to advancement to the next phase. All court fees, supervision fees, treatment costs and restitution will need to be paid in full prior to graduating from the program.

## PHASES

**Pre-Phase:** The focus of this period, anticipated to be four weeks, will be to allow the participant to get sober, maintain a brief period of sobriety, and demonstrate receptiveness to treatment and the requirements of the DUI Court program. This is your opportunity to show the court that you are serious about participating in the program. Participants are asked to:

- Attend substance abuse education or treatment sessions as directed by the treatment provider.
- Submit to urinalysis testing as directed - this testing during pre-phase is at your own expense.
- Permit home visits to be completed by the probation officer.
- Comply with a ten o'clock p.m. (10:00 pm) curfew.
- Attend daily AA meetings and continue to do so until directed otherwise.
- Obtain a sponsor.
- Plead to their pending offense and/or probation violation.

In order to complete Pre-Phase and be officially enrolled in the DUIC program, participants must have one month of continuous sobriety, provided a negative or "clean" urine test and follow through with the above requirements.

**Phase One:** This Phase is anticipated to be no less than (16) weeks. The focus of Phase One is to engage the participant in treatment and support his/her efforts to participate in their treatment plan. Participants will:

- Permit random unannounced home visits by probation officers or other law enforcement agencies.
- Appear in DUI court sessions: first and third Wednesdays of the month.
- Attend counseling for at least four hours per week.

- Expect randomly scheduled alcohol/drug screening tests.
- Attend thirty (30) AA/NA meetings in thirty (30) day (one each day) and as further required by your treatment plan.
- Comply with all terms of the Misdemeanor Probation Agreement.
- Obtain employment if appropriate.
- Obtain an AA/NA sponsor if required by the treatment provider.
- Comply with a ten o'clock p.m. (10:00 pm) curfew.

During Phase One, participants are expected to fully participate in the DUIC program. The participant's treatment plan will include abstinence from drug and alcohol use and a treatment program that will develop the skills necessary to maintain this state. To advance to Phase Two, participants must have sixteen (16) weeks of continuous clean urine screens and negative breath tests and have a positive probation report, be recommended for promotion by the DUI court team, be current on all fees, and have all other Phase One requirements met.

**Phase Two:** Phase Two is anticipated to be no less than sixteen (16) weeks. The focus of Phase Two is to give the participant an opportunity to demonstrate a commitment to living within the law, and living without alcohol or other drugs. Participants will:

- Permit random unannounced home visits by probation officers or other law enforcement agencies.
- Appear in DUI court sessions: first and third Wednesdays of the month.
- Attend counseling sessions between 2-4 hours per week.
- Comply with all terms of the Misdemeanor Probation Agreement.
- Expect randomly scheduled alcohol/drug screening tests.
- Continue to attend four (4) AA/NA meetings per week.
- Obtain employment or attend school if appropriate.
- Continue working with an AA/NA sponsor as directed by the treatment provider.
- Comply with an 11:00 pm curfew.

To advance to Phase Three participants must have a positive probation report, be recommended for promotion by the DUI court team, and complete thirty-two (32) weeks of continuous clean urine screens and negative breath tests, be current on all fees, and have met all other Phase Two requirements.

**Phase Three:** The focus of Phase Three is serving the community and learning how to live a sober life. The emphasis will be on reintegrating into the community and developing the necessary skills and habits that will lead to long term sobriety. Phase Three will be no less than sixteen (16) weeks. Participants will:

- Permit random unannounced home visits by probation officers or other Law Enforcement Agencies.
- Appear in DUI court sessions: first Wednesday of the month.
- Attend and complete Breaking Barriers.
- Attend counseling for at least one hour per week.
- Comply with all terms of the Misdemeanor Probation Agreement.

- Expect randomly scheduled alcohol/drug screening tests.
- Continue to attend three (3) AA/NA meetings per week.
- Continue working with an AA/NA sponsor as directed by the treatment provider.
- Comply with a 12:00 midnight curfew.
- Participate in a service position for their AA/NA home group or district.

To advance to Phase Four participants must complete treatment, have a positive probation report, be recommended for promotion by the DUI court team, and complete a minimum of forty-eight (48) weeks of continuous clean urine screens and negative breath tests, be current on all fees, and have met all other Phase Three requirements.

**Phase Four:** The focus of Phase Four is maintaining an alcohol/drug and crime free life. Each client will be provided with the necessary skills to transition their families and themselves into the community as active and contributing members. The emphasis in Phase Four will be on giving back to the community and to the families who have supported the participant through the DUI Court experience. Phase Four will be a minimum of sixteen (16) weeks. Participants will:

- Permit random unannounced home visits by probation officers or other law enforcement agencies.
- Appear in DUI court sessions: once every two months on the first Wednesday of that month.
- Comply with all terms of the Misdemeanor Probation Agreement.
- Expect randomly scheduled alcohol/drug screening tests.
- Continue to attend three (3) AA/NA meetings per week.
- Continue participating in AA/NA service work or home group activities.
- Mentor new DUI Court Clients at the direction of the DUI Court Team.
- Design and complete a community project and present your project to the team within two months of entering Phase 4.

**Graduation:** Length of the program is usually sixteen (16) to twenty (20) months.

Successful participants will graduate after completing Phase Four and remaining drug and alcohol free for a minimum of twelve consecutive months. Participants will complete requirements of their treatment plan, pay all fees and restitution, and demonstrate the ability to live productively. The DUI court Judge will have the final say as to a participant's readiness to graduate.

### **Termination from the Program**

This is a voluntary program. You may stop being a participant in DUIC program at any time; however, you will be sentenced for the original Driving Under the Influence or other charge to which you have previously pleaded guilty or to the probation violation to which you have admitted. The judge and staffing team may also decide to remove you from the program for not following the rules, for not making progress, or for the commission of a new crime. They will make this decision as a team. **Any participant who is determined to be or have been drinking and driving will be immediately terminated from the program.**

## ADDITIONAL GUIDANCE AND EXPECTATIONS

### 1. AA/NA Meetings:

At the beginning of Phase I, you will be expected to attend a minimum of thirty AA/NA meetings in thirty days (**one each day**), unless otherwise directed by the DUI court team, and show proof of your attendance by having the chairperson of the meeting initial your card. DUI court participants may not initial cards for other DUI court participants. There is a direct link between the faithfulness of attendance at AA/NA meetings and the success of the client who has a problem with addiction, so even if you feel the meetings are “boring” or “inconvenient” or “not helpful” you will still be required to attend. There are lots of meetings in the area at all times of the day and evening. You may want to look in a broader area than Lewiston. Your success in these programs depends upon your willingness to participate.

You are in an addiction treatment program and will be expected to get an AA/NA sponsor during Pre-Phase of the DUIC Program. A sponsor is a person working an active recovery program, a person who has at least two (2) years of sobriety, and a person with whom you will work the Twelve Steps of AA/NA. **Another DUI court participant may not be your sponsor.**

### 2. Abstinence:

All participants must remain completely abstinent of all alcohol and illegal drugs. When a client first enters DUI court there is often a window of time when the urine screens or breath tests come back positive. This is especially true of drugs such as marijuana, which takes some time to metabolize out of the system. In this case a first positive urine screen is used to establish a base-line, and no sanction will be imposed as long as the lab reports continue to show diminishing levels of the drug in the urine. A significant increase in drug levels will be interpreted as a new use. In order to avoid a sanction for this first positive test a client must be honest with the team about their recent alcohol and/or drug use. In other words, if you tell us you have been using methamphetamines, but we also get a positive for alcohol or another drug, that could be interpreted as deception. Tell us what the screen will be positive for and we will work with you as you get clean. Participants will not progress to Phase 1 until all drugs and alcohol are out of their system.

After establishing abstinence, any positive lab report on a urine, saliva, or patch test or breath test will be interpreted as new substance use. When the DUI court team has proof of new substance use in a client an immediate sanction will be imposed, this can include immediate incarceration. If a client disputes the results of the test they are entitled to ask for a repeat or confirmation test. The participant will be responsible for paying for any confirmation tests that are performed.

### 3. Attendance:

All participants are required to participate in all DUI court sessions unless given permission to miss a session by the DUI court judge. Permission to miss will be given rarely. Examples of reasons that are **not** acceptable for missing court:

- no child care
- no transportation
- work
- school

A client who is not in court, and who did not have specific permission to miss court, will be subject to arrest. All participants are expected to attend all scheduled sessions of treatment and to be on time for all sessions. Absence or tardiness from treatment will result in sanctions.

### 4. Family participation:

Studies show that individuals who have a strong familial support system are more likely to succeed in their recovery; therefore, family members of participants are encouraged to attend DUI court sessions and graduations. Family members are also encouraged to attend family night with the participant as they progress through their treatment plan.

### 5. Community Service:

One of the sanctions frequently assigned by the judge is community service. This is work performed for no pay, and must be done for a non-profit agency. If you are thinking of doing volunteer work for a needy individual that work must **first** be approved by the DUI court team. Permission is usually given if a non-profit agency agrees **in advance** to sponsor your volunteer work and sign for your hours.

There will be no credit given for community service performed while in jail.

A community service report form will be given to you by your probation officer.

All community service must be completed by as directed by the DUI court judge. Failure to complete community service in a timely manner may result in additional sanctions.

There is a workmen's compensation fee requirement for all community service hours. You must pay \$0.60 cents an hour, in advance, to the Clerk of Court at the Nez Perce County Courthouse.

### 6. Contacts:

The DUI court team may restrict your association with certain persons. Failure to follow any restriction of you contacts may result in sanctions.

## **7. Court Appearances:**

participants are expected to be in court on the first and third Wednesday of the month, except Phase Three and Four participants who only have to appear on the first Wednesday of the month. Always bring your signed AA/NA card with you to court. You may be required to show proof of employment by bringing your most recent pay stub or other indicator if you have a job or proof of attendance at school. The judge may ask to see all of these items.

Expect to remain in the courtroom until all participants have been called forward by the judge. If you have a pressing need to leave the courtroom before court is dismissed, you may ask for permission ahead of time or you may ask the judge when you are talking to him.

Please observe courtroom etiquette by dressing appropriately (no bare midriffs, no shorts, no T-shirts with drug or alcohol related messages on them, no big holes in your jeans, etc.). A good rule of thumb is to dress for court the way you would dress for a job interview. Obviously, the exception to this suggestion is people who come directly from work to court. When you come to court directly from work we expect you to be dirty and no one objects to that. In fact, it may be good for your image!

You will be expected to speak directly to the Judge when your name is called to come forward in court. When he asks you a question answer with a “yes sir” or a “no sir” instead of “yeah.” Be honest with him and speak up if you have questions or concerns about any aspect of your program. There is no topic we consider off-limits. However, arguing with him after he has made a decision doesn’t help you in the long run, and rarely makes any difference on the decision. Respect goes a long way. Some participants have become angry and stormed out of the courtroom, but this too doesn’t serve you very well in the long run, and usually results in your having to make an apology for your behavior the next time you are in court. It may also result in your arrest or other sanctions.

Do not speak to each other while court is in session unless absolutely necessary. Whispering is distracting for the judge and the other people in the courtroom.

The court is open to the public. Feel free to invite family members and friends to accompany you to court, but tell them about the rules before they come in.

**Turn off all cell phones and pagers before entering the courtroom.**

If you have questions for the team do not whisper to us during court because we must be paying attention to what the judge is saying to the participants and vice-versa. It’s a good idea to write down your questions and give them to us on a note. We will either answer you then, or give you a call in the near future to discuss your question.



## **8. Drug Screening Tests:**

DUI court participants will submit to urinalysis testing to check for the presence of alcohol and drugs. We currently use Valley Drug Testing for collecting urine screens. Participants will be assigned a color and will be required to call in to a "UA Line" Monday through Saturday to see if their color has been called and if a drug test is required. Failure to report for drug screening will be interpreted as a positive result and a sanction will be imposed.

In addition you may be required to submit to random testing at the direction of your probation officer. If you cannot provide a urine sample, you will be allowed a short amount of time to drink some fluid and try again, but if you have not produced a sufficient quantity of urine within two (2) hours you will be sent home and the test will be interpreted as positive.

If you provide a dilute sample (creatinine reading less than 20 mg/dl) it will also be interpreted as positive. It is difficult to drink enough fluids to accidentally dilute your urine to that extreme, so the lab has suggested anyone whose urine is diluted is probably trying to hide the presence of alcohol and drugs in their system by flooding themselves with water. Drink just enough to be able to provide a urine sample.

Should a drug screening report indicate a positive alcohol or drug level, you will be immediately incarcerated by Adult Misdemeanor Probation. The maximum days of incarceration for a first positive alcohol or drug test will be three (3) days before you see the Judge.

## **9. Requests to travel.**

For participants who want to travel out of the area for a special occasion please ask permission to do so. It is recommended to not wait until you are in court to ask the Judge for permission. All requests should be made prior to the team meeting at 3:30 pm (Wednesdays) on DUI court day. You may make your request by calling your probation officer. When planning to travel out of town be prepared to give dates of departure and return; names, phone numbers, and addresses of who you will be staying with, and let your hosts know your probation officer may be calling them to verify your information and discuss abstinence requirements, curfews, etc. If your request is to go camping, the probation officer will need a map with driving instructions on how to get to your camp site. Remember, travel requests will be granted only to participants who are current on all their fees.

## **10. Medical conditions:**

If you have a serious medical condition you will not be automatically excluded from consideration by DUI court. You must be willing to fully disclose your condition and medical care to the DUI court team. If you are taking a prescribed medication for your condition you must continue to do so. Although we can be flexible and work around your condition, you must be able to engage in and complete treatment. However, this program is not appropriate for individuals who require continuous, long-term treatment with a controlled substance.

You are in an addiction treatment program; therefore, participants are discouraged from taking any narcotic medication unless medically necessary. The DUI Court Team expects the participant to be upfront and honest with their medical provider and advocate for an alternative form of medication. Should you develop a medical condition where your doctor prescribes medication you must bring in the prescription and show your probation officer and your treatment provider. We also require that you notify the medical professional of your addiction. Each participant is given a medical ID card which must be initialed by the medical staff and brought to the DUI court team.

If a narcotic medication becomes medically necessary, the DUI Court Team will evaluate the situation to determine if any action should be taken. During the period of time a participant is taking narcotic medication, they may be asked to discontinue treatment and have their sobriety date suspended until the participant is able to actively participate in treatment and is no longer taking or affected by the narcotic medication.

#### **11. Driving Privileges:**

Upon acceptance into DUI Court, in addition to any other suspension you may have, your privilege to drive will be suspended for a period of one year. The first forty-five (45) days of that suspension will be ABSOLUTE which means that you cannot drive for any reason. After the first forty-five (45) days, you may request that the DUI Court Judge grant you a restricted driving permit. Whether or not you receive a restricted permit and the conditions of that permit will be solely determined by the Judge. If you do receive a restricted permit, you will be required to install an interlock device in any vehicle that you drive.

Participants who are granted a restricted permit are expected to abide by the terms of the permit. Participants are only allowed to drive to and from work, treatment and AA meetings with no deviation. For example, you cannot stop at the grocery store on the way home from work or you may not stop and pick up individuals to take them to treatment or an AA meeting. Should the participant be found in violation of their temporary permit they will be sanctioned.

#### **12. Residency:**

If you are selected to participate in the Nez Perce County DUI Court, you will be required to reside in the City of Lewiston, Idaho.

### **Sanctions/Incentives**

Noncompliance may result in one of a series of graduated sanctions being imposed. Behaviors considered noncompliant include unexcused absences or tardiness (from DUI court or any program appointment), positive alcohol/drug screens, providing a fraudulent or altered urine sample, disruptive or disrespectful behavior, failure to attend AA/NA meetings, providing a fraudulent or altered AA/NA attendance card, failure to complete a sanction, new arrest, or violation of a court order. Sanctions include writing assignments, increased reporting to probation, electronic monitoring,

community service, movement back to an earlier Phase, local incarceration of variable length or any other sanction as imposed by the DUI court team and judge. The sanctions list is attached to this handbook and your contract for DUI court. There may be times when the sanctions seem “unfair” because you were given more punishment for the same offense than someone else. Do not spend much energy comparing your sanction to someone else’s. If you do not know all the circumstances you will not be able to understand the differences. The team will never discuss the circumstances of someone else’s sanction.

If a participant drinks within the first six months of the program, that person will be required to restart the program.

**ANY PARTICIPANT WHO IS DETERMINED TO BE OR HAVE BEEN DRINKING AND DRIVING WILL BE IMMEDIATELY DISCHARGED FROM THE NEZ PERCE COUNTY DUI COURT.**

### Incentives and Rewards

- Recognition by Judge or DUI Court team
- Certificates of recognition / completion
- Advancement to next phase
- Decreased drug / alcohol testing
- Decrease in mandatory attendance of support groups or treatment groups
- Set at beginning of Court calendar
- “Express Card” entitles one to be seen first and leave court
- Less intensive supervision by probation
- Prizes, gifts, other tangible rewards at Court if available
- Reduction / dismissal of charge (s) or PV if applicable
- Graduation / Sobriety and drug-free living
- Free DUI Court

<b>Violations / Behaviors:</b>	<b>Sanctions include but not limited to:</b>
Missed drug / alcohol tests	<ul style="list-style-type: none"> <li>* Community Service</li> <li>* Increased drug / alcohol testing</li> <li>* Electronic Monitoring</li> <li>* Jail</li> </ul>
Tampering with drug / alcohol tests	<ul style="list-style-type: none"> <li>* Increased D&amp;A testing</li> <li>* Community Service</li> <li>* Jail</li> <li>* Possible Termination</li> </ul>
UA/BAC positive for drugs or alcohol	<ul style="list-style-type: none"> <li>* Increased drug / alcohol testing</li> <li>* Increased support meetings</li> <li>* Increased treatment</li> <li>* Treatment phase adjustment</li> <li>* Writing assignments / journaling</li> <li>* Immediate arrest / jail sentence up to three days before court appearance</li> </ul>
Missed meeting with probation	<ul style="list-style-type: none"> <li>* Add or adjust curfew</li> <li>* Community Service</li> <li>* Phase adjustment</li> <li>* Jail</li> </ul>
Missed treatment meetings	<ul style="list-style-type: none"> <li>* Increased treatment</li> <li>* Increased support meetings</li> <li>* Phase re-adjustment</li> <li>* Community service</li> <li>* Writing assignments / journaling</li> <li>* Jail</li> <li>* Possible termination</li> </ul>
Missed support groups	<ul style="list-style-type: none"> <li>* Electronic home monitoring</li> <li>* Make up meetings</li> <li>* Adjust curfew</li> <li>* Jail</li> </ul>
Inappropriate behavior at treatment	<ul style="list-style-type: none"> <li>* Community Service</li> <li>* Written apology</li> <li>* Jail</li> <li>* Possible termination</li> </ul>
Confessing to use / relapse	<ul style="list-style-type: none"> <li>* Written assignments / journaling</li> <li>* Adjustment of treatment</li> <li>* Jail</li> </ul>

Curfew Violation	<ul style="list-style-type: none"> <li>* Community service</li> <li>* Electronic home monitoring</li> <li>* Jail</li> </ul>
Driving without privileges	<ul style="list-style-type: none"> <li>* Fines</li> <li>* Electronic home monitoring</li> <li>* Curfew</li> <li>* Jail</li> <li>* Possible termination</li> </ul>
Other new arrest / offense	<ul style="list-style-type: none"> <li>* Fines</li> <li>* Community service</li> <li>* Electronic monitoring</li> <li>* Jail</li> <li>* Possible Termination</li> </ul>
New arrest for impaired driving	<ul style="list-style-type: none"> <li>* Termination</li> </ul>
Leave residential treatment without permission	<ul style="list-style-type: none"> <li>* Warrant issues for arrest</li> <li>* Phase adjustment</li> <li>* Jail</li> <li>* Termination</li> </ul>
Missed DUI Court appearance	<ul style="list-style-type: none"> <li>* Warrant issues for arrest</li> <li>* Jail</li> <li>* Possible termination</li> </ul>
Forging support group attendance cards	<ul style="list-style-type: none"> <li>* Jail</li> <li>* Possible termination</li> </ul>

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